

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawaii 96813

May 22, 2009

Board of Land
and Natural Resources
Honolulu, Hawaii

Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National
Monument Education Permit to Dr. Andrew Rossiter, Waikiki Aquarium, for Access to State
Waters to Conduct Coral Collection Activities.

The Division of Aquatic Resources (DAR) hereby submits a request for your authorization and approval for issuance of a Papahānaumokuākea Marine National Monument education permit to Dr. Andrew Rossiter, Director, Waikiki Aquarium, pursuant to § 187A-6, Hawaii Revised Statutes (HRS), chapter 13-60.5, Hawaii Administrative Rules (HAR), and all other applicable laws and regulations.

The education permit, as described below, would allow entry and activities to occur in the Papahānaumokuākea Marine National Monument (Monument), including the NWHI State Marine Refuge and the waters (0-3 nautical miles) surrounding the following sites:

- Nihoa Island,
- Necker Island (Mokumanamana),
- French Frigate Shoals,
- Gardner Pinnacles,
- Maro Reef
- Laysan Island,
- Lisianski Island, Neva Shoal,
- Pearl and Hermes Atoll,
- Kure Atoll State Seabird Sanctuary

The activities covered under this permit will occur from June 1, 2009 through December 31, 2009.

INTENDED ACTIVITIES

The purpose of these activities is the collection and removal of live coral from Papahānaumokuākea Marine National Monument, to be maintained and put on public display in a new exhibit at the Waikiki Aquarium highlighting the fauna and ecosystem of the Northwestern Hawaiian Islands. In addition, some specimens may be housed in an educational display at the NOAA Mokuapapa Discovery Center in Hilo.

Target species of coral are those which are rare or absent from the Main Hawaiian Islands, and include:

- Table Coral
- Fuzzy Table Coral
- Finger Staghorn Coral
- Bushy Staghorn Coral
- Branching Staghorn Coral
- Lumpy Rice Coral
- Hawaiian Rice Coral

The applicant proposes to collect 10 specimens of each species, except for Table Coral for which 15 specimens are requested. In addition, the applicant requests to collect up to 5 voucher specimens of any unknown coral species encountered. The priority would be to collect small (8-15cm) naturally dislodged coral fragments of these corals, with fragments of intact colonies being used only as a last resort. Only corals exhibiting excellent health characteristics would be collected.

Coral fragments would be placed into specialized holding tanks or coolers aboard the vessel. Extreme care would be taken to follow the protocols established by the applicant and Monument staff concerning the collection, storage, and transport of the specimens, including the discharge of water from these holding tanks/coolers (see F-2d). Coral collections would be conducted opportunistically by divers already accessing the Monument under other permits, such as Rob Toonen and Stephen Karl from HIMB, and Jim Maragos from the US Fish and Wildlife Service.

It should be noted that the applicant's permit request also includes the collection of targeted fish species from Midway Atoll for inclusion in the display exhibit. The species and numbers of fish can be found on the Collections List (F-2c), but were not detailed in this submittal as the waters around Midway Atoll are not state waters.

Because the Northwestern Hawaiian Islands are not easily accessible to the public, the Waikiki Aquarium's new 4,000 gallon display would help introduce the Monument to the public and stimulate an interest and appreciation for its significance and importance.

The activities proposed by the applicant directly support the Monument Management Plan's action plan 3.5.4 – Ocean Ecosystems Literacy (through strategy OEL-2: Develop and implement new tools to “bring the place to the people”, with focus on students, within 3 years).

The activities described above may require the following regulated activities to occur in State waters:

- ☒ Removing, moving, taking, harvesting, possessing, injuring, disturbing, or damaging any living or nonliving monument resource
- ☒ Anchoring a vessel
- ☒ Touching coral, living or dead
- ☒ Swimming, snorkeling, or closed or open circuit SCUBA diving within any Special Preservation Area or Midway Atoll Special Management Area

REVIEW PROCESS:

The permit application was sent out for review and comment to the following scientific and cultural entities: Hawaii Division of Aquatic Resources, Hawaii Division of Forestry and Wildlife, Papahānaumokuākea Marine National Monument (NOAA/NOS), NOAA Pacific Islands Regional Office (NOAA-PIRO), United States Fish and Wildlife Service Hawaiian and Pacific Islands National Wildlife Refuge Complex Office, and the Office of Hawaiian Affairs (OHA). In addition, the permit application has been posted on the Monument Web site since March 11th, giving the public an opportunity to comment. The application was posted within 40 days of its receipt, in accordance with the Monument's Public Notification Policy.

Comments received from the scientific community are summarized as follows:

Scientific reviews support the acceptance of this application.

Concerns raised were:

1. Why certain species are being targeted for collection inside the Monument, when they are also present outside of Monument waters (MHI or elsewhere)
2. Clarification that there are adequate safeguards at the Aquarium to ensure that any fish or coral health issues do not get released into the waters around Oahu (i.e. flow through tanks that outlet in nearshore waters)
3. The timeline for the exhibits that would display collected fish/corals

Comments received from the Native Hawaiian community are summarized as follows:

Cultural reviews support the acceptance of this application. No concerns were raised.

Comments received from the public are summarized as follows:

No comments were received from the public on this application.

Additional reviews and permit history:

Are there other relevant/necessary permits or environmental reviews that have or will be issued with regard to this project? (e.g. MMPA, ESA, EA) Yes ☒ No ☐

If so, please list or explain:

- The proposed activities are in compliance with the National Environmental Policy Act.

Has Applicant been granted a permit from the State in the past? Yes ☐ No ☒

If so, please summarize past permits:

Have there been any a) violations: Yes ☐ No ☒
 b) Late/incomplete post-activity reports: Yes ☐ No ☒

Are there any other relevant concerns from previous permits? Yes ☐ No ☒

RESPONSE:

1. The applicant points out that these signature species are highly abundant around the NWHI, but are extremely rare or beyond the depths at which commercial divers/WAQ staff can collect around the MHI. As such, removal of a few specimens of these species from the Main Hawaiian Islands may mean extirpation from that habitat. In contrast, the collection of a limited number of specimens of these target species from the NWHI where they are abundant, would be insignificant.
2. The applicant states that the WAQ takes extreme care to make sure all non-native organisms do not find their way into local waters. The WAQ maintains many exhibits with non-native animals or animals from surrounding islands which are uncommon to this area, and all of the discharge water from these exhibits and holding tanks must be discharged to the sewer system. The WAQ also has a disaster preparedness protocol which outlines procedures that must be followed in the event of a known natural disaster to prevent the spread of any of these organisms/or potential health issues to surrounding waters.
3. The applicant points out that the NOAA Mokupapapa Discovery Center is currently up and running. The Aquarium's NWHI exhibit grand opening is scheduled for March 2010. The animals collected during these trip(s) would be housed in an exhibit quality tank behind the scenes until the new exhibit has properly cycled and is ready to accept fish.

STAFF OPINION:

DAR staff is of the opinion that Applicant has properly demonstrated valid justifications for his application and should be allowed to enter the NWHI State waters and to conduct the activities therein as specified in the application with the following special instructions and conditions, which are in addition to the Papahānaumokuākea Marine National Monument Education Permit General Conditions. The following special conditions have been vetted through the legal counsel of the Co-Trustee agencies.

1. This permit is not to be used for nor does it authorize the sale of collected organisms. Under this permit, the authorized activities must be for noncommercial purposes not involving the use or sale of any organism, by-products, or materials collected within the Monument for obtaining patent or intellectual property rights.
2. The permittee may not convey, transfer, or distribute, in any fashion (including, but not limited to, selling, trading, giving, or loaning) any coral, live rock, or organism collected under this permit without the express written permission of the Co-Trustees.

3. To prevent introduction of disease or the unintended transport of live organisms, the permittee must comply with the disease and transport protocols attached to this permit.
4. Tenders and small vessels must be equipped with engines that meet EPA emissions requirements.
5. Refueling of tenders and all small vessels must be done at the support ships and outside the confines of lagoons or near-shore waters in the State Marine Refuge
6. No fishing is allowed in State Waters except as authorized under State law for subsistence, traditional and customary practices by Native Hawaiians.

MONUMENT MANAGEMENT BOARD OPINION:

The MMB is of the opinion that the Applicant has met the findings of Presidential Proclamation 8031 and this activity may be conducted subject to completion of all compliance requirements. The MMB concurs with the special conditions recommended by DAR staff.

RECOMMENDATION:

"That the Board authorize and approve, with stated conditions, a Education Permit to Dr. Andrew Rossiter, Waikiki Aquarium."

Respectfully submitted,



DAN POLHEMUS
Administrator

APPROVED FOR SUBMITTAL



LAURA H. THIELEN
Chairperson